

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Waiver of Section 54.802(a) of the Commission's Rules)	CC Docket No. 96-45
)	

**PRAIRIEWAVE BLACK HILLS, LLC PETITION FOR WAIVER OF SECTION
54.802(a) OF THE COMMISSION'S RULES**

Pursuant to section 1.3 of the Commission's rules, PrairieWave Black Hills, LLC (hereinafter "PrairieWave") requests a waiver of the March 30, 2007, deadline for filing line count data for the Form 525 (Competitive Carrier Line Count Report) as set forth in section 54.802(a) of the Commission's rules.¹ On Monday, April 9, 2007, PrairieWave discovered that, due to an oversight by the personnel responsible for compiling and filing the line count data², it inadvertently did not submit the data for the 4th quarter, 2006, by the deadline on Friday, March 30, 2007. PrairieWave took immediate action to prepare and submit the data, which was delivered to Universal Service Administrative Company ("USAC") electronically this same day, which was six (6) business days late. Upon contacting USAC regarding the error, USAC informed PrairieWave that a Petition for Waiver must be filed with the FCC. PrairieWave has consistently met the Competitive Carrier Line Count Report filing deadlines in prior quarters, and is filing this petition to ask that the Bureau waive the March 30, 2007 filing date and direct USAC to accept the

¹ 47 C.F.R. § 54.802(a).

² During the relevant period PrairieWave Black Hills was in the midst of an accelerated closing a merger between its parent PrairieWave Holdings, Inc. and Knology, Inc., which closing took place on April 3, 2007. The person responsible for filing Form 525 was heavily engaged in the gathering and completion of necessary documents for the closing and this particular filing was inadvertently overlooked.

line count data file on April 9, 2007. Grant of this petition will promote the public interest because, as the Commission has previously acknowledged, Interstate Access Support funding based on the line count data serves a vitally important role in assuring affordable telephone service. Granting this Petition also is consistent with Commission precedent. In comparable circumstances, the Commission has granted waivers of the deadline for filing line count data for IAS support. Finally, timely granting of the petition will serve the public interest by minimizing the impact of the late-filed data and helping to assure that USAC is not inconvenienced by the delay from the original filing date.

1. BACKGROUND.

Section 54.802(a) of the Commission's rules requires that line count data be filed on a quarterly basis with USAC. PrairieWave is an Eligible Telecommunications Carrier providing service within an area served by a price cap local exchange carrier, to wit: Qwest Corporation. PrairieWave recognizes that USAC and the Commission place a high priority on compliance with this filing date and, consequently has sought diligently to submit line count data on time. Indeed, prior to March 30, 2007, PrairieWave has never failed to meet the relevant filing date. Nevertheless, due to an oversight by the PrairieWave personnel responsible for preparing and submitting the line count data, PrairieWave inadvertently missed the Friday, March 30, 2007, filing deadline. On Monday, April 9, 2007, PrairieWave personnel responsible for preparing and submitting the line count data for PrairieWave realized the failure to make the requisite filing and reported it to management. PrairieWave took immediate action to gather the requisite line count data, prepare the appropriate forms, and to file those forms with USAC. Those forms were delivered to USAC electronically that same day, Monday, April 09, 2007, six

(6) business days beyond the deadline. On this same day, USAC informed PrairieWave Black Hills of the need to file a Petition for Waiver with the FCC.

PrairieWave Black Hills sincerely regrets the oversight that caused the late filing in this instance. PrairieWave has in place procedures to collect the requisite data to begin completing Form 525 thirty days before the deadline, with weekly electronic reminders, reviewed by management, up to the filing date. That procedure was initially followed in this instance. However, as noted in a preceding footnote, later in the month of March the close of the merger between PrairieWave's parent company and Knology, Inc. was accelerated to the same time period as the filing requirement. In the administrative bustle to complete the merger, the filing reminder got lost in the flood of other emails and electronic reminders.

2. DISCUSSION.

Section 1.3 of the Commission's rules provides that the Commission may waive its rules "if good cause therefore is shown."³ Generally, such a waiver is appropriate if "special circumstances warrant deviation from the general rule and such deviation will serve the public interest," and where strict application of the rules is inconsistent with the public interest.⁴ In applying this standard, the Commission typically considers, *inter alia*, whether grant of a waiver will avoid hardship or inequity or result in more effective implementation of overall Commission policy.⁵ PrairieWave Black Hills' requested waiver meets these criteria.

³ 47 C.F.R. § 1.3.

⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *see also WAIT Radio v. FCC*, 418 F.2s 1153, 1159 (D.C. Cir. 1969).

⁵ *WAIT Radio*, 418 F.2d at 1159

Absent a waiver of the March 30 deadline for submitting line count data, PrairieWave will be ineligible to obtain the IAS support that the Commission has acknowledged is a critical component of its access charge and universal service reform efforts. Moreover, in light of PrairieWave history of compliance with the deadline and section 54.802(a), as well as its prompt efforts to remedy its error, strict enforcement of the filing deadline would disproportionately penalize PrairieWave for its oversight. Granting a waiver of the deadline, and, in effect, giving PrairieWave Black Hills a brief extension of the period in which to file these data should not impose significant hardship on USAC. In these circumstances, the public interest weighs strongly in favor of granting PrairieWave the waiver and brief extension it seeks.

Commission precedent also supports granting PrairieWave the waiver it seeks. In January of this year, the Bureau granted AT&T Communications of NY and AT&T Communications of California a waiver of the deadline for submitting line count data to obtain IAS support.⁶ The Bureau has granted similar waivers in the past to Verizon Communications and Citizens Communications/Frontier Communications in comparable circumstances.⁷ In those cases, the petitioners had inadvertently failed to file line count data by the deadline, promptly sought to remedy their errors by filing the data within days of the deadline, and implemented additional procedures to ensure that they would not

⁶ *Federal-State Joint Board on Universal Service, AT&T Communications of NY and AT&T Communications of California Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, DA 07-234 (rel. Jan. 26, 2007)

⁷ *Federal-State Joint Board on Universal Service, Verizon Communications Inc., Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, DA 06-1861 (rel. Sep. 12, 2006)(*Verizon Order*); *Federal-State Joint Board on Universal Service, Citizens Communications and Frontier Communications Petition for Waiver of Section 54.802(a) of the Commission's Rules*, CC Docket No. 96-45, DA 05-2829 (rel. Oct. 27, 2005)(*Citizens/Frontier Order*).

miss the deadline in the future.⁸ Likewise, PrairieWave Black Hills promptly sought to remedy its oversight within six (6) business days and will ensure that its procedures will result in line count data filings in future.

For the foregoing reasons, PrairieWave Black Hills respectfully requests that the Bureau promptly grant this petition and direct USAC to accept PrairieWave Black Hills' fourth-quarter 2006 line count data.

Respectfully submitted,
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⁸ Citizens/Frontier Order at para. 9; Verizon Order at para. 9.